

1-21-05

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Prof. Richard C. Willson III)
and Tony Cano)
Serial No.: **10/737,403**)
Filed: 12/16/2003) Examiner
For: ...Introduction of Structural Afinity)
Handles in...Separations)
Priority: 20 December 2002, Provis. 60/434,901)
Attorney Docket: ..016AUS/UH2229) Art Unit _____
)

Response Due: **6 March 2005**

PETITION TO REVIVE FOR UNAVOIDABLE DELAY

Commissioner for Patents
Mail Stop Petitions
Box 1450;
Alexandria VA 22313-1450
Sir:

In respect to the enclosed USPTO Notice mailed January 6, 2004, Applicants' Attorney has just received for the first time on January 11, 2005 the Request to File Missing Parts alleged to have been mailed 4/19/2004.

The undersigned Attorney certifies that this Document has been filed in the U.S. Post Office via Express Mail ER255904828US addressed as above to the USPTO on 20 January 2005 (37 CFR 1.10).

The Invention

This invention comprises processes for a rapid, scaleable, nuclease-free (preferably RNase free), cost effective method of nucleic acid purification comprising introduction of affinity handles into the desired (or undesired) product. No sequences are claimed, and the few sequences mentioned in the Specification are merely illustrative. Applicants claim no sequences.

01/27/2005 MAHME1 00000126 10737403

01 FC:2452 250.00 DP

Repln. Ref: 01/27/2005 MAHME1 0023333300
DAH:200336 Name/Number:10737403
FC: 9204 \$685.00 CR

Applicants express some preference for sequences containing purines, but this is not vital (and any natural sequence does have them, as these are A and G).

The few sequences in the examples are of no special importance and are not inventive. Nonetheless, in order to expedite prosecution, a compact disc (CD) containing the few sequences in machine-readable form and a paper copy of the disc is also enclosed, together with a duplicate of each.

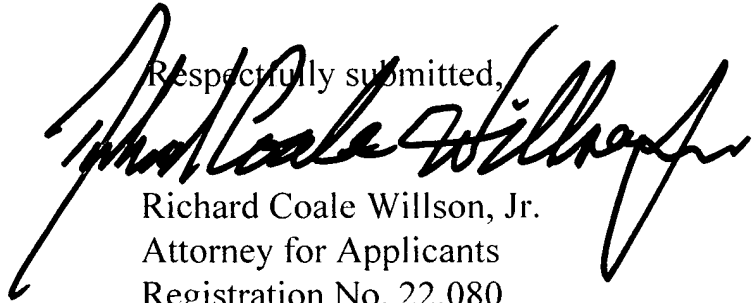
Applicants' Attorney certifies that the CD and the paper copy are identical with the sequence portions of the Application.

Therefore, Applicants immediately petition on grounds of Unavoidable Delay (37 CFR 1.137) and enclose: (1) **Applicants Statement hereby that the entire delay was unavoidable because Applicants' Attorney only received the above-identified Notice by fax from the USPTO on January 11, 2005, thus could not reply earlier;** (2) a response to the above-identified Notice; (3) Bank of America check #5242 for \$1000.00 more than covering both the \$250.00 petition fee and the \$55.00 37 CFR 1.20(d) disclaimer fee for small entity; and (4) a PTO/SB63 terminal disclaimer of the time (to be calculated by the Examiner) that the Application was abandoned

It is respectfully urged that the Petition Fee and the Disclaimer Fee should not be charged or should be refunded because the delay was due to the Applicants never receiving the above-identified Notice. Any necessary (small entity) charges can be charged to USPTO Deposit Account 20-336 of Technology Licensing Co. LLC. Any overpayment should be credited to that Account. Correspondence may be addressed to Customer No. 26830.

The Petition Office or the Office of Initial Patent Examination is especially invited to telephone Applicants' Attorney if that would expedite prosecution of this Application.

Respectfully submitted,



Richard Coale Willson, Jr.

Attorney for Applicants

Registration No. 22,080

USPTO Customer 26830

3205 Harvest Moon Ste 200

Palm Harbor FL 32683

Telephone - 727 781 0089

Fax: 727 785 8435

E-mail: rwillso@tampabay.rr.com

Enclosures: (2) Response, (3) Check for \$1000, (4) Terminal Disclaimer; Copy of Notice, duplicate CDs and paper copies of sequences.

015AUS'UH2229HandlesPetition20050111

**TERMINAL DISCLAIMER TO ACCOMPANY PETITION**

Docket Number (Optional)

015AUS/UH2229

In re Application of:

Name: Prof. Richard C. Willson III and Tony Cano

Application Number: 10/737,403

Filed: 12/16/2003

For: INTRODUCTION OF STRUCTURAL AFFINITY HANDLES IN ...SEPARATIONS

The owner*, University of Houston of 100 percent interest in the above-identified application hereby disclaims a terminal part of the term of any patent granted the above-identified application equivalent to: (1) if the above-identified application is a design application, the period of abandonment of the above-identified application, and (2) if the above-identified application is a utility or plant application, the lesser of: (a) the period of abandonment of the application; or (b) the period extending beyond twenty years from the date on which the above-identified application was filed in the United States or, if the application contains a specific reference to an earlier filed application(s) under 35 U.S.C. 120, 121, or 365(c), from the date on which the earliest such application was filed. This disclaimer also applies to any patent granted on a utility or plant application filed before June 8, 1995, or a design application, that contains a specific reference under 35 U.S.C. 120, 121, or 365(c) to the above-identified application. This disclaimer is binding upon the grantee, and its successors or assigns.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of an organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the organization.

2. ☒ The undersigned is an attorney or agent of record. Registration Number 22080

Signature

01/19/2005

Date

Richard Coale Willson, Jr.

Typed or Printed Name

727 781 0089

Telephone Number

☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

01/27/2005 MAHME1 00000126 10737403

02 FC:2814

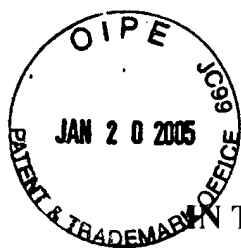
65.00 DP

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

* Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of Prof. Richard C. Willson III)
and Tony Cano)
Serial No.: **10/737,403**)
Filed: 12/16/2003) Examiner
For: ...Introduction of Structural Affinity)
Handles in...Separations)
Priority: 20 December 2002, Provis. 60/434,901)
Attorney Docket: ..016AUS/UH2229) Art Unit _____
)

Response Due: **6 March 2005**

REPLY TO NOTICE TO COMPLY...SEQUENCES

37 CFR 1.821-1.825

Commissioner for Patents
Mail Stop Petitions
Box 1450;
Alexandria VA 22313-1450
Sir:

In respect to the enclosed USPTO Notice mailed January 6, 2004, Applicants' Attorney has just received for the first time on January 11, 2005 the Notice to Comply alleged to have been mailed 4/19/2004.

The undersigned Attorney certifies that this Document has been filed in the U.S. Post Office via Express Mail ER255904828US addressed as above to the USPTO on 20 January 2005 (37 CFR 1.10).

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The few sequences in the examples are of no special importance and are not inventive. Nonetheless, in order to expedite prosecution, a compact disc (CD) containing the few sequences in machine-readable form and a paper copy of the disc is also enclosed, together with a duplicate of each.

Applicants' Attorney certifies that the CD and the paper copy are identical with the sequence portions of the Application.

The undersigned Applicants' Attorney states that the entire delay was unavoidable because Applicants' Attorney only received the above-identified Notice by fax from the USPTO on January 11, 2005, thus could not reply earlier. The Attorney routinely docketed USPTO mail requiring response immediately upon receiving it and no such docket notations appear in the Docket ledger. Further, the Notice of Allowance was allegedly mailed on the same date (possibly in the same envelope) and that Notice is missing from the Attorney's file of this Application. In fact, the Attorney learned of the Serial Number only by the return postcard stamped by the USPTO. This has not occurred in the past five years at least.

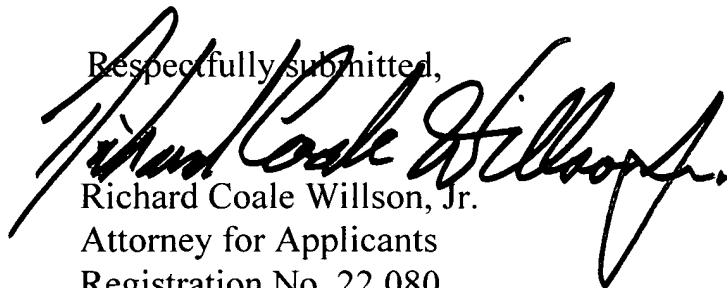
Therefore, Applicants have immediately petitioned on grounds of Unavoidable Delay (37 CFR 1.137) and enclose: the Petition, (1) **Applicants Statement hereby that the entire delay was unavoidable because Applicants' Attorney only received the above-identified Notice by fax from the USPTO on January 11, 2005, thus could not reply earlier;** (2) this response to the above-identified Notice; (3) Bank of America check #5242 for \$1000.00 more than covering both the \$250.00 petition fee and the \$55.00 37 CFR 1.20(d) disclaimer

fee for small entity; and (4) a PTO/SB63 terminal disclaimer of the time (to be calculated by the Examiner) that the Application was abandoned

It is respectfully urged that the Petition Fee and the Disclaimer Fee should not be charged or should be refunded because the delay was due to the Applicants never receiving the above-identified Notice. Any necessary (small entity) charges can be charged to USPTO Deposit Account 20-336 of Technology Licensing Co. LLC. Any overpayment should be credited to that Account. Correspondence may be addressed to Customer No. 26830.

The Petition Office or the Office of Initial Patent Examination is especially invited to telephone Applicants' Attorney if that would expedite prosecution of this Application.

Respectfully submitted,



Richard Coale Willson, Jr.

Attorney for Applicants

Registration No. 22,080

USPTO Customer 26830

3205 Harvest Moon Ste 200

Palm Harbor FL 32683

Telephone - 727 781 0089

Fax: 727 785 8435

E-mail: rwillso@tampabay.rr.com

Enclosures: Petition, (2) This Reply, (3) Check for \$1000, (4) Terminal Disclaimer; Copy of Notice, duplicate CDs and paper copies of sequences.

015AUS'UH2229HandlesrNoticeSequences20050120

Sequences in US Patent Application 10/737,403 [Atty Docket 015AUS]

Example 3, lines 3-4:

A TaqMan[®] probe sequence ((6FAM)-

CCCCGTACACAAAAATGCACATGCTG-(6TAMRA)) and primer set sequences (5'-GAAAGGCGCGCGATACAG-3'; 3'-GTCCCGCCCTACTCATCGA-5') targeting the 7-copy *E. coli* 23S rRNA gene were used.

Example 4, line 24:

an affinity column is used that has immobilized oligonucleotides complementary to a single stranded region of the desired aptamer (e.g. 3' ACA GTC CCC 5').

Sequences in US Patent Application 10/737,403 [Atty Docket 015AUS]

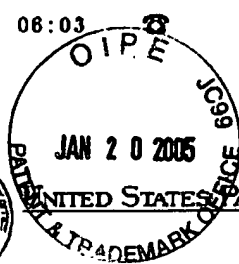
Example 3, lines 3-4:

A TaqMan[®] probe sequence ((6FAM)-

CCCCGTACACAAAAATGCACATGCTG-(6TAMRA)) and primer set sequences (5'-GAAAGGCGCGCGATACAG-3'; 3'-GTCCCGCCCTACTCATCGA-5') targeting the 7-copy *E. coli* 23S rRNA gene were used.

Example 4, line 24:

an affinity column is used that has immobilized oligonucleotides complementary to a single stranded region of the desired aptamer (e.g. 3' ACA GTC CCC 5').



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|------------------------|---------------------------|------------------------|
| 10/737,403 | 12/16/2003 | Richard Coale Willson III | 015AUS/UH2229 |

26830
 RICHARD COALE WILLSON JR
 3205 HARVEST MOON DR
 STE 200
 PALM HARBOR, FL 34683-2127

CONFIRMATION NO. 6655

FORMALITIES LETTER



OC000000012392749

Date Mailed: 04/19/2004

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Filing Date Granted

Applicant is given **TWO MONTHS FROM THE DATE OF THIS NOTICE** within which to file the items indicated below to avoid abandonment. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

- This application clearly fails to comply with the requirements of 37 CFR. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998). If the effective filing date is on or after September 8, 2000, see the final rulemaking notice published in the Federal Register at 65 FR 54604 (September 8, 2000) and 1238 OG 145 (September 19, 2000). Applicant must provide an initial computer readable form (CRF) copy of the "Sequence Listing", an initial paper or compact disc copy of the "Sequence Listing", as well as an amendment directing its entry into the application. Applicant must also provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or compact disc) sequence listing and, where applicable, includes no new matter, as required by 37 CFR 1.821(e), 1.821(f), 1.821(g), 1.825(b), or 1.825(d). If applicant desires the sequence listing in the instant application to be identical with that of another application on file in the U.S. Patent and Trademark Office, such request in accordance with 37 CFR 1.821(e) may be submitted in lieu of a new CRF.

For questions regarding compliance to these requirements, please contact:

- For Rules Interpretation, call (703) 308-4216
- To Purchase PatentIn Software, call (703) 306-2600
- For PatentIn Software Program Help, call (703) 306-4119 or e-mail at patin21help@uspto.gov or patin3help@uspto.gov

Replies should be mailed to: Mail Stop Missing Parts
 Commissioner for Patents
 P.O. Box 1450



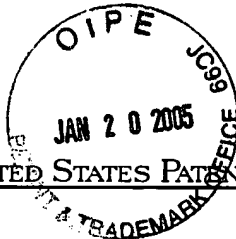
Alexandria VA 22313-1450

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|---------------------------|------------------------|
| 10/737,403 | 12/16/2003 | Richard Coale Willson III | 015AUS/UH2229 |

CONFIRMATION NO. 6655

ABANDONMENT/TERMINATION LETTER



OC000000014900513

26830
 RICHARD COALE WILLSON JR
 3205 HARVEST MOON DR
 STE 200
 PALM HARBOR, FL 34683-2127

Date Mailed: 01/06/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 04/19/2004.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

Z. Moquess

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY